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# QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 August 1994]

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Report on the situation concerning human rights and fundamental freedoms in Peru

1. The International Federation of Human Rights and its affiliate, the Pro Human Rights Association (APRODEH), consider that Peru is still in the throes of a process of political violence with few parallels in the Americas. The situation is seriously aggravated by repeated examples of behaviour by the Government of Peru, which systematically violates human rights and fundamental freedoms. During the first six months of 1994, 227 attacks were launched by armed opposition groups - 6 by the Túpac Amaru Revolutionary Movement (MRTA), 165 by Sendero Luminoso and 56 for which nobody has claimed responsibility; during those attacks 217 persons (215 of them civilians) were killed and 89 (all of them civilians) were injured. The government army undertook 29 actions against the armed opposition groups, as a result of which 105 persons were killed and 28 injured. During the same period, eight cases of enforced disappearances of individuals were reported; three of them have reappeared alive, and the fate of the other five is unknown.

2. The figures show that Sendero Luminoso and the MRTA are less active than last year. However, there are no indications that the end of armed political violence is near. The situation is roughly in line with the assurance given by President Fujimori that MRTA would be destroyed in 1993 and Sendero Luminoso in 1995. The MRTA has been broken up at the national level, but is still in existence, concentrated in the forests in the centre of the country. Sendero Luminoso has been seriously weakened, but it maintains some capacity to mobilize forces. Notwithstanding the reduction in the activity of the armed opposition groups, the extent of the territory in which the state of emergency is still in force - and where, as a consequence, fundamental freedoms are suspended and the military command takes precedence over the civil authorities - remains unchanged. Military control is in place in 15 of the country's 23 provinces, this during an election period with President Fujimori seeking re-election. He has made his alliance with the high command of the armed forces his principal instrument for the maintenance of stability.

3. Indications exist that secret negotiations are taking place between the government and Sendero Luminoso. In 1992 the head of the latter, Abimael Guzmán, proposed to President Fujimori that they should hold talks "to reach a peace agreement". As a result, Sendero Luminoso suffered a split; a group broke away under the leadership of Oscar Ramírez Durand, who intends to continue with military action. Guzmán and his supporters have been granted considerable improvements in their treatment in prison, while the supporters of Ramírez are still subjected to the strict rules of confinement in cells and restrictions on visits laid down in the legislation on terrorism and treason. In addition, and in breach of the Repentance Act (Legislative Decree 25449), the judiciary has freed top leaders of Sendero Luminoso such as Luis Alberto Arana Franco and, according to allegations by the Procurator-General, General Daniel Espichán, six others. The Supreme Court opened an inquiry, which concluded that no irregularity had been committed, while the Procurator-general was refused authorization by the Minister of Justice, Vega Santa Gadea, to make a statement on the results of the Repentance Act.

4 At the fourth summit meeting of Heads of Ibero-American States, President Fujimori made statements rejecting "underhand interventionism ... claiming to defend democracy in the continent for human rights" and seeking to justify an isolationist attitude in relation to the machinery for the defence of human rights established by the international community. He expressed similar

thoughts in Beijing when he stated that human rights problems formed part of the "internal affairs" of each country.

5. Notwithstanding some amendments introduced in 1993 into the emergency penal legislation issued in 1992, the latter still contains serious violations affecting the rights of due process, the rights of defence and trials of civilians by military tribunals. The "repentance" system, which was designed to induce insurgents to defect in exchange for information, has led to the unjust imprisonment of many innocent persons implicated by testimonies obtained illegally or not duly corroborated. But, as was seen in paragraph 3, leaders of Sendero Luminoso, who under the law may not take advantage of the repentance system, are being freed by the judiciary.

6. On 8 February, while the Supreme Court was discussing whether those responsible for the "Caso La Cantuta" should be tried by a civil or a military jurisdiction, the government-controlled majority in the legislature adopted Act 26291, which cut short voting on the subject and handed the case over to the military jurisdiction. The Act was immediately denounced by the Lima College of Advocates and by APRODEH, but the Supreme Court decided that it was applicable to the case under consideration. An appeal has been entered against this ruling - which constituted a retroactive application of legislation and a violation of the independence of the judiciary - but has not so far yielded any result. Other crimes - the Barrios Altos massacre (13 persons murdered in November 1991); the 8 persons who have disappeared from the Santa (detained by the police in May 1992); the two students who disappeared from Callao University in October and December 1993 respectively; and the 6 students abducted and the 21 murdered during 1992 at the Universidad del Centro in Huancayo - committed during the term of the present government are still unpunished. The case of the massacre of seven peasants in the village of Sóndor (province of Piura) by an army patrol in July 1992 was finally referred to the military courts, which have still to pronounce sentence.

7. The report of the murders, tortures and rapes committed against non-combatant civilians in the Moyuna and Moena areas (respectively in the districts of Crespo y Castillo and Rupa Rupa in Leoncio Prado province) during the military operation Aries, which took place in March-May 1994, has still not been elucidated. The army has claimed that the operation was directed against the Sendero Luminoso column known as "Mar Rojo" and denied that there were any civilian casualties or any villages in the area. The CNDDHH and the International Committee of the Red Cross (ICRC) were prevented from entering the area. General Rodriguez Riveros, the commander on the Huallaga front, stated to the Press that he "had suspicions" that the ICRC might be co-operating with the insurgents. His statement was not disavowed by the High Command; the ICRC was only offered the possibility of visiting the area guided by military patrols. The CNDDHH secured sufficient evidence to corroborate the report, and it established that in Moyuna at least 12 peasants had been murdered and that rockets had been fired at peasants' homes. The Commander-General of the army stated that the strength of the Mar Rojo column had been reduced from 450 in January to less than 50, but he has not produced any prisoners or bodies. The Roman Catholic bishopric of Huácano issued a declaration concerning these events, stating that we wish to see an end to violence at any cost, even that of innocent lives" and urging the military patrols not to cause distress to the civilian population. Carlos Blanco, the Chairman of the Human Rights Committee of Congress and an unconditional government supporter, and the Attorney-General made declarations without

conducting investigations and following guided visits conducted by the army, thus weakening the credibility of the reports.

8. Opponents of the regime have been sentenced at trials tainted by arbitrary features. Agustín Mantilla, formerly Minister of the Interior (in 1985-90), was arrested in 1992 but released in May after being sentenced to two years' imprisonment for "the illegal possession of weapons". The retired generals Jaime Salinas, Cisneros Vizquerra, Parra Herrera and Pastor Vives have been sentenced by military tribunals, in one or more trials, to terms of imprisonment ranging from three months to eight years. General Rodolfo Robles is under threat of a sentence of 15 years' imprisonment after denouncing the High Command, army officers and Presidential adviser Vladimiro Montesinos as responsible for the "Caso la Cantuta" and other hitherto unsolved crimes. His denunciations have never been investigated by the armed forces, notwithstanding the existence of corroborative evidence, at least in the case of the "Caso la Cantuta". The director of the magazine Caretas, Enrique Zileri, was sentenced for defamation as a result of a suit brought against him by Presidential adviser Vladimiro Montesinos.

9. Evidence exists of high levels of corruption and involvement in drug trafficking within the High Command. The drug baron Demetrio Chávez Peñaherra, who was arrested in January 1994 and stated to a Parliamentary committee that he had paid $ 5,000 to the commanders of the Punta Arenas military base in Alto Huallaga for every shipment of cocaine and had been operating since 1990 with their connivance, was referred to the military jurisdiction and sentenced at a secret trial to life imprisonment on the alleged grounds of having assisted Sendero Luminoso financially. As a result of public pressure, proceedings for drug trafficking were begun in the civil courts implicating general Jaime Ríos Araico, the commanding officer on the Huallaga front until 1991, but not his successor, General Eduardo Bellido Mora, who was accused by an officer of covering up drug trafficking in the region. On 15 July 1994 a military tribunal sentenced three officers and three subordinates for the murders of eight presumed drug traffickers and the misappropriation of 320 kg of raw cocaine paste on 29 October 1992 in the region of Balsayacu in the Huallaga valley. Two official communiqués issued by the High Command on the Huallaga front on the latter date had alleged the incident to be a crime committed by Sendero Luminoso. Only following denunciations published in the magazine "SI" did the army inspectorate conduct an investigation and the trial take place. The majority of the accused persons were acquitted, and General Bellido, who was responsible for the official communiqués, did not stand trial.

10. State officials continue to harass human rights militants. In April it was learned that the Ministry of the Interior was investigating over 250 lawyers who defended citizens accused of terrorism. The list included five lawyers and a journalist of APRODEH who defend innocent persons wrongly accused. In addition, during March the journalist was arbitrarily detained in the town of Chiclayo, where he was investigating violations of the human rights of prisoners in Picsi gaol.

11. Hundreds of detained persons - such as the prisoner of conscience Michael Soto - have been awaiting trial before the faceless courts of the judiciary for as much as two years, or - like the prisoners of conscience Rómulo Mori and Wagner Cruz, who have been in detention since May 1992 and were condemned in first instance to 20 years' imprisonment - have been awaiting the outcome of their appeals to the Supreme Court for protracted periods.

12. In the light of the foregoing, we are convinced that the Government of Peru should be kept under the constant scrutiny of the international community on account of its systematic violations of human rights and fundamental freedoms. We urge the Sub-Commission to examine this situation under its agenda item 6 and to request the Commission on Human Rights to set up the procedure appropriate to the situation.